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NO.

In the
Supreme Court of the United States

OCTOBER TERM, 1982

ROBERT VALADEZ ROMO,

PETITIONER,

VS.

UNITED STATES OF AMERICA,

RESPONDENT.

**PETITION FOR WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED FOR REVIEW

Is due process clause contravened when an accused is convicted of transporting a stolen car in interstate commerce in the absence of proof that he knew it was stolen. The Fifth Amendment to the U.S. Constitution provides that no person shall be deprived of his liberty without due process of law.

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The Petitioner, ROBERT VALADEZ ROMO, respectfully prays that a Writ of Certiorari issue to review the judgment and opinion of the United States Court of Appeals for the Fifth Circuit entered September 3, 1982, and its denial of Petition for Rehearing on September 28, 1982.

OPINION BELOW

The opinion of the United States Court of Appeals for the Fifth Circuit, affirming the conviction is a per curiam opinion, a copy of the same is attached hereto as Appendix A.

JURISDICTION

The United States Court of Appeals for the Fifth Circuit entered a judgment affirming the conviction in this cause on September 3, 1982. Jurisdiction of this Court is invoked under Title 28, United States Code, Section 1254(1), and Rule 17, U.S. Supreme Court Rules.

STATEMENT OF THE CASE

Petitioner was convicted in U.S. District Court of transporting a stolen motor vehicle in interstate commerce in violation of 18 USC 2312. In support of the jury's verdict for conviction, the Appeals Court erroneously concludes that (1) the title was obviously forged, (2) the vehicle was grossly undervalued and (3) valid proof of purchase was lacking and therefore the accused must be guilty.

REASONS FOR GRANTING THE WRIT

A. Petitioner's principal point of error challenged the sufficiency of the evidence. A certificate of title given the accused was *not* "obviously forged." A title clerk from the State of Minnesota testified that a Texan, unfamiliar with Minnesota titles, would probably not recognize any such forgery. (SF 121 and 129). None of the three professional car dealers, testifying for the government, ever saw any evidence of theft of title problems. (SF 47, 73, and 87). As far as being "grossly undervalued," Mr. Wood saw physical defects in the stolen car that would make it un-

marketable with a franchise dealer (SF 67). Mr. Romo was given a cash receipt and a car title. The purchase was made after two meetings in the Valley with a friendly visitor. Petitioner submits that not only was there a total absence of evidence against him, but the proof presented was contrary to guilt by circumstance by implication or suspicion.

B. The Court of Appeals, as the trial judge and jury, has the mistaken conception that the accused had the burden to show his innocence. The record does not bear out the above conclusions, but even if supported by the evidence, the Government must convict with conclusive proof. The due process clause of the Fifth Amendment cannot permit a jury to convict on mere surmise that an accused is guilty.

CONCLUSION

WHEREFORE, PREMISES CONSIDERED, Petitioner prays that this Honorable Court grant his Petition for Writ of Certiorari.

Respectfully submitted,

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BY: _____

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Attorneys for Petitioner

CERTIFICATE OF SERVICE

The undersigned, a member of the bar of this court, certifies that Pursuant to Rule 33, Supreme Court Rules, he served the Petition for Writ of Certiorari to the Court of Appeals for the Fifth Circuit on the counsel for Respondent by enclosing a copy thereof in an envelope, postage prepaid addressed to:

**The Honorable Wade H. McCree, Jr.
Solicitor General of the United States
Department of Justice
Washington, D.C. 20530**

and depositing same in the United States mails at Edinburg, Texas, on November 27, 1982, and further certifies that all parties required to be served have been served.

L. Aron Pena